

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:13CR178

JORGE PEREZ PEREZ,

Petitioner.

**MEMORANDUM OPINION**

Jorge Perez Perez, a federal inmate proceeding *pro se*, brings this motion pursuant to 28 U.S.C. § 2255 (“§ 2255 Motion,” ECF No. 353). On March 11, 2016, the Government filed a Motion to Dismiss § 2255 Motion as Untimely (“Motion to Dismiss,” ECF No. 354).

Approximately nine months before Perez Perez filed his § 2255 Motion, he filed a Motion for Sentence Modification. (ECF No. 342.) By Memorandum Order entered on June 1, 2017, the Court denied that Motion. (ECF No. 387, at 3.) By Memorandum Order entered on June 19, 2017, the Court noted that “[t]he Government’s Motion to Dismiss does not address the impact, if any, Perez Perez’s Motion for Sentence Modification has on the statute of limitations applicable to Perez Perez’s § 2255 Motion.” (ECF No. 388, at 1.) Accordingly, the Court directed the Government to “submit a supplemental response that addresses the impact of the Motion for Sentence Modification on the statute of limitations. The supplemental response should also raise any other procedural defenses and address the merits of Perez Perez’s § 2255 Motion.” (*Id.*)

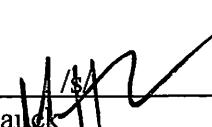
The Government filed its supplemental response on July 19, 2017. (ECF No. 389.) On August 1, 2017, counsel for the Government filed a notice indicating that he could not certify that the Government had served the response on Perez Perez because he was released from

federal custody and failed to provide the Government or the Court with a current address. (Notice 1, ECF No. 390.) Accordingly, by Order entered on August 8, 2017, the Court noted that “[s]ince that date, [Perez Perez] has not contacted the Court to provide a current address. [Perez Perez’s] failure to contact the Court and provide a current address indicates his lack of interest in prosecuting this action.” (ECF No. 394, at 1 (citing Fed. R. Civ. P. 41(b)).) The Court directed Perez Perez to notify the Court, within eleven (11) days, of his desire to proceed. (*Id.*) The Court warned Perez Perez that failure to respond would result in the dismissal of this action. (*Id.*) That same day, counsel for the Government filed a second notice indicating that following Perez Perez’s release on April 24, 2017, Perez Perez was transferred to ICE custody and was deported to Mexico on May 3, 2017. (Notice 1, ECF No. 395.)

More than eleven (11) days have passed from the entry of the Court’s August 8, 2017 Order, and Perez Perez has not responded to notify the Court of his desire to proceed on his § 2255 Motion. Accordingly, the action will be DISMISSED for failure to prosecute. Perez Perez’s § 2255 Motion (ECF No. 353) will be DENIED. The Government’s Motion to Dismiss (ECF No. 354) will be DENIED AS MOOT.

An appropriate Order will accompany this Memorandum Opinion.

Date: **SEP - 6 2017**  
Richmond, Virginia

  
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M. Hannah Lauck  
United States District Judge